

REMARKS

Claims 1-7, 9, 16, 26-27, and 32-38 were pending in the application. By this amendment, claims 1, 6, 26, 32, 35, and 38 have been amended.

The following remarks are in response to the grounds for rejection of claims set forth in the Office Action.

I. Claims Rejected Under 35 U.S.C. § 103

Claims 1, 3-7, 9, 26-27, and 32-38 were rejected as being unpatentable over Koike et al. (USP 6,056,760) in view of Gannoe et al. (USP 6,746,460) and Laufer et al. (US Pub. No. 2004-0194790). Claims 2 and 16 were rejected as being unpatentable over Koike, Gannoe, Laufer, and further in view of Matsui et al. (USP 6,352,503). The rejections appear to be identical to those included in the prior Office Action, mailed on September 19, 2006.

In Applicant's prior Response, filed February 20, 2007, Applicant presented Remarks supporting Applicant's position that the rejections of all claims should be withdrawn because the Office Action failed to establish a prima facie case of obviousness of the claims. In the current Office Action, the Examiner acknowledges those Remarks, but deems them unpersuasive. Applicant appreciates the Examiner's careful consideration of these issues, as evidenced by the detailed response set forth on pages 6 through 8 of the Office Action. Applicant also strongly disagrees with the Examiner's response, and continues to maintain that the combinations of the patents and publications relied upon to reject the claims would not have been obvious to a person of ordinary skill in the art, for each of the reasons set forth in Applicant's prior response. Applicant expressly reserves its right and expresses its intent to pursue allowance of those claims, through appeal of their rejection if necessary.

Nevertheless, in order to expedite prosecution of this application, and to obtain allowance of claims to which Applicant is entitled, Applicant has amended each of the pending independent claims to distinguish those claims even further from the patents and publications cited in the pending Office Action. In particular, claim 1 has been amended to recite the step of: "translating a fastener over the suture whereby a tension force is created on the suture and said tissue fold is maintained." Claim 6 has been amended to

recite a similar step, including the additional recitation that the “fastener” comprises “a collar having a central channel through which the suture extends.” Claims 26, 32, 35, and 38 have been amended to recite subject matter similar to that added to claim 1. Support for these amendments is contained in the specification and drawings at, for example, paragraphs 0051, 0065-0070, and 0073-0079 and Figures 6, 9A-C, 10A-D, 15-16, and 17A-E.

None of the patents or publications cited in the pending Office Action either discloses, teaches, or suggests a step of translating or advancing a fastener over a suture in order to apply a tension force that causes an anchor assembly to maintain a tissue fold. This feature of the claimed method is significant in that it allows the user to select the distance that the fastener will be advanced on the suture, thereby selecting the desired amount of tension on the suture during a particular procedure. This allows flexibility to accommodate smaller or larger tissue folds, and to accommodate various tissue types. None of the cited patents or publications describes a fastener having this capability, nor do they suggest any reason for providing the step of translating or advancing such a fastener over a suture.

For these reasons, Applicant submits that the present claims contain subject matter that is patentable over the prior art. Applicants request withdrawal of the rejections of these claims. A Notice of Allowance is requested.

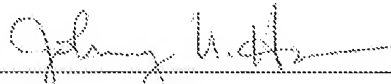
Amendment and/or cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented. Similarly, unless explicitly stated, nothing contained or not contained in this paper should be construed as an assent to any of the Examiner’s stated grounds for rejecting the claims, including specifically the Examiner’s characterization of the teachings of the cited art and the Examiner’s contentions that any combinations of cited art would have been obvious. Rather, the present amendments to the claims and Remarks are an attempt to expedite allowance and issuance of the currently pending claims. No new matter has been added.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections and pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the appropriate fee and/or petition is not filed herewith and the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with this filing to **Deposit Account No. 50-3973** referencing Attorney Docket No. **USGINZ02112**. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,



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